

***2008 ANNUAL REPORT  
LEGISLATIVE COUNCIL  
RULES CLEARINGHOUSE***

**WISCONSIN LEGISLATIVE COUNCIL**

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**February 2009**

*State of Wisconsin*  
**JOINT LEGISLATIVE COUNCIL**

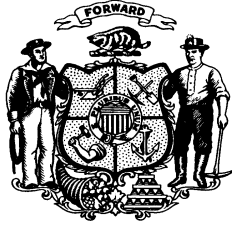
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President, State Senate

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Representative, State Assembly



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February 2009

TO: THE HONORABLE JAMES E. DOYLE, GOVERNOR, AND THE WISCONSIN  
LEGISLATURE

This report of the calendar year 2008 activity of the Legislative Council Rules  
Clearinghouse is submitted to you pursuant to s. 227.15 (5), Stats.

Sincerely,

Terry C. Anderson  
Director

TCA:jal

January 5, 2009

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s. 13.81, Stats.

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**ROBIN VOS**

4710 Eastwood Ridge  
Racine, WI 53406

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

*Terry C. Anderson, Director, Legislative Council Staff*  
1 East Main Street, Suite 401, P.O. Box 2536, Madison, Wisconsin 53701-2536



**WISCONSIN LEGISLATIVE COUNCIL STAFF**  
**2008 ANNUAL REPORT ON THE**  
**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE\***

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\* This Report was prepared by Ronald Sklansky, Director, and Richard Sweet, Assistant Director, Rules Clearinghouse, Legislative Council.



## **FUNCTION OF THE LEGISLATIVE COUNCIL** **RULES CLEARINGHOUSE**

### **REVIEW OF RULES**

Legislative review of proposed administrative rules begins with the submission of a rule to the Legislative Council Rules Clearinghouse. Section 227.15, Stats., requires that, prior to any public hearing on a proposed rule or prior to notification of the chief clerk of each house of the Legislature if no hearing is held, an agency must submit the proposed rule to the Legislative Council Rules Clearinghouse for staff review. (See the *Administrative Rules Procedures Manual* (September 2008), prepared by the Legislative Council and the Legislative Reference Bureau, for more information on drafting, promulgating, and reviewing administrative rules.)

The Legislative Council is provided 20 working days, following receipt of a proposed rule, to prepare a report on its review of the rule. However, with the consent of the Director of the Legislative Council, the review period may be extended for an additional 20 working days.

Upon receipt of a proposed administrative rule, a Clearinghouse rule number is assigned and submission of the rule is recorded in the *Bulletin of Proceedings* of the Wisconsin Legislature. Two numbered rule jackets, one for the Assembly and one for the Senate, are prepared.

The Director of the Rules Clearinghouse assigns the rule to a Legislative Council staff member for review and preparation of the statutorily required report. The staff member generally prepares the report within 10 working days and transmits the report to the Director or Assistant Director for final review. When the report on the proposed rule is completed, the staff returns the rule jackets and the Clearinghouse report containing the results of the review to the agency. [See *Appendix I* for a sample Clearinghouse report.]

In accordance with s. 227.15, Stats., the Clearinghouse report:

1. Reviews the statutory authority under which the agency intends to adopt the proposed rule.
2. Reviews the proposed rule for form, style, and placement in the Wisconsin Administrative Code.
3. Reviews the proposed rule to avoid conflict with, or duplication of, existing rules.
4. Reviews the proposed rule to ensure that it provides adequate references to related statutes, rules, and forms.
5. Reviews the language of the proposed rule for clarity, grammar, and punctuation and to ensure the use of plain language.

6. Reviews the proposed rule to determine potential conflicts and to make comparisons with related federal statutes and regulations.

7. Reviews the proposed rule to determine whether the agency has specified the number of business days within which the agency will review and make a determination on an application for a business permit.

As part of this review process, staff of the Legislative Council is directed to ensure that procedures for the promulgation of the rule are followed, as required by ch. 227, Stats., and to streamline and simplify the rule-making process.

### **OTHER RELATED RESPONSIBILITIES**

Other primary rule review responsibilities of the Legislative Council include:

1. Working with and assisting the appropriate legislative committees throughout the rule-making process.

2. Notifying the Joint Committee for Review of Administrative Rules (JCRAR) and appropriate committees of the Legislature whenever the rule-making authority of an agency is eliminated or significantly changed by the repeal, amendment, or creation of a statute, by the interpretive decision of a court of competent jurisdiction, or for any other reason.

3. Assisting the public in resolving problems related to administrative rules. This function includes providing information, identifying agency personnel who may be contacted in relation to rule-making functions, describing locations where copies of rules, proposed rules, and forms are available, and encouraging and assisting participation in the rule-making process.

4. Creating and maintaining an Internet site that includes a copy of each proposed rule in a format that allows the site to be searched using keywords.

The final responsibility of the Legislative Council is the submission of an annual report to the chief clerk of each house of the Legislature and to the Governor summarizing any action taken by the staff and making recommendations to streamline the rule-making process and to eliminate obsolete, duplicative, and conflicting rules. This report is the 29th *Annual Report* submitted by the Legislative Council and covers the staff's activities during calendar year 2008. It has been preceded by an initial report to the 1979 Legislature, which covered the staff's activities from November 2, 1979 to April 1, 1980 (i.e., from the effective date of Ch. 34, Laws of 1979, which initiated the omnibus rule review process, to the end of Floorperiod IV of the 1979 Session) and annual reports for calendar years 1980 to 2007.

### **RECORDKEEPING SYSTEM**

The Legislature's *Bulletin of Proceedings* is used for recording actions relating to the review of administrative rules. The Legislative Council, the Senate and Assembly Chief Clerks, and the Legislative Reference Bureau cooperate in a computerized recordkeeping system.



Commencing with the 1979 Session, action on administrative rules has been shown in a separate part of the *Bulletin of Proceedings*.

Under this system, each proposed rule is assigned a number and entered in the computer system by the staff of the Legislative Council. A copy of the Clearinghouse report is placed in a Senate and Assembly rule jacket (similar to bill jackets) and the rule is then transmitted to the agency promulgating the rule for its review. After transmittal, all legislative actions taken on the rule are entered on the face of the jacket and are reported to the chief clerk of each house. The chief clerk enters the actions in the computer system, thereby compiling a history of all legislative actions taken on the rule.

At the beginning of each biennial session, the administrative rule portion of the *Bulletin of Proceedings* is updated by deletion of all records relating to rules which, in the preceding session, have become effective, have been withdrawn, or have been permanently objected to by law. Also removed from the *Bulletin of Proceedings* annually and withdrawn from the rule-making process is any proposed rule that, in accordance with s. 227.14 (6) (c), Stats., has been pending for at least four years, but no more than five years, after the date of its receipt by the Legislative Council under s. 227.15 (1), Stats. The final *Bulletin of Proceedings* printed for the preceding session then serves as the permanent record of the disposition of those rules. The remaining rules, which are still in the promulgation process, are carried over into the new *Bulletin of Proceedings* for the following biennial session.

Access to rules and agency reports over the Internet became available in 2001 for all rules initiated after the year 2000. These materials may be found at the Legislative Council's website, [www.legis.state.wi.us/lc](http://www.legis.state.wi.us/lc). A useful executive branch website for information about administrative rules is <https://apps.dhfs.state.wi.us/admrules/public/Home>.



### **2008 ACTIVITIES OF THE RULES CLEARINGHOUSE**

During 2008, 114 proposed administrative rules were submitted to the Legislative Council by 18 state agencies.

As of December 31, 2008, Clearinghouse reports had been completed on 110 of the 114 proposed rules and four rules were in the process of review. In addition to the 110 rule reports completed on 2008 rules, reports were prepared in 2008 on eight rules received in late 2007. Of the 118 reports completed in 2008, no rule required an extension of the review process by the Director of the Legislative Council. Clearinghouse activities in 2008 are summarized below:

Rules Received in 2008		114
Withdrawn	0	
No report required	0	
Pending	4	
		-4
2008 Reports Completed		110
2007 Reports Completed in January 2008		8
<b>Total Reports in 2008</b>		<b>118</b>

The table below shows that, from November 2, 1979 (the beginning of the omnibus rule review process) through December 31, 2008, the Clearinghouse has received 5,760 rule submissions and completed reviews on 5,666 proposed rules. Of the total rule submissions, 90 were exempt from the reporting process for various reasons and four were under review at the end of 2008.

<i><b>Year</b></i>	<i><b>Received</b></i>	<i><b>Completed</b></i>	<i><b>Exempt</b></i>
1979	70	45	12
1980	252	227	24
1981	252	234	9
1982	251	254	3
1983	222	220	4
1984	255	247	2
1985	213	206	4
1986	251	252	4
1987	182	186	1
1988	219	216	5
1989	212	208	1
1990	264	254	3
1991	199	205	2
1992	225	228	0
1993	241	232	1
1994	225	234	0
1995	236	224	2
1996	194	201	1
1997	158	159	1
1998	208	200	2
1999	170	177	1
2000	189	176	1
2001	157	158	1
2002	155	160	1
2003	126	127	2
2004	142	142	0
2005	122	123	0
2006	139	139	3
2007	117	114	0
2008	114	118	0
<b>Total</b>	<b>5,760</b>	<b>5,666</b>	<b>90</b>

In 2008, rules were received from the following 18 state agencies:

***Number of Proposed Rules, by Submitting Agency***

Department of Administration	3
Department of Agriculture, Trade and Consumer Protection	5
Department of Commerce	15
Department of Corrections	2
Department of Employee Trust Funds	3
Department of Financial Institutions	5
Department of Health Services	11
Department of Military Affairs	1
Department of Natural Resources	22
Department of Public Instruction	5
Department of Regulation and Licensing	10
Department of Revenue	1
Department of Transportation	9
Department of Workforce Development	11
Government Accountability Board	3
Insurance Commissioner	6
Public Service Commission	1
University of Wisconsin System	1
<b>Total Number of Rules Submitted</b>	<b>114</b>

Although the statistics presented in this report give some indication of the workload of the Legislative Council staff in reviewing proposed administrative rules, it should be noted that rules vary in length. Similarly, Clearinghouse reports vary from completion of a simple checklist to large reports. In summary, for all rule reports completed in 2008, the Legislative Council staff commented on:

1. The *statutory authority* of a proposed administrative rule on 25 occasions.
2. The *form, style and placement* of proposed administrative rules in the Wisconsin Administrative Code on 90 occasions.
3. A *conflict* with, or *duplication* of, existing rules on 6 occasions.
4. The *adequacy of references* of proposed administrative rules to related statutes, rules and forms on 52 occasions.
5. *Clarity, grammar, punctuation and use of plain language* in proposed administrative rules on 92 occasions.

6. The *potential conflicts* of proposed administrative rules with, and their comparability to, related federal statutes and regulations on one occasion. In addition, the Legislative Council staff has adopted a policy of noting when proposed rules are based on federal “*guidelines*,” which do not have the force of law, as opposed to rules based on federal “*regulations*,” which do have the force of law and with which the state may have a legal obligation to comply.

7. The *permit action deadline requirement* on no occasions.

### **WORKING WITH AND ASSISTING COMMITTEES**

A Legislative Council staff attorney or analyst works with each standing committee and statutory committees, except Joint Finance. When a committee has a proposed rule referred to it by the presiding officer of the house, the staff member will participate in the committee’s oversight.

During 2008, legislative committees held hearings or requested meetings on **16 proposed rules**. Modifications to rules were either requested or received in the legislative review of **13 proposed rules**. **One proposed rule** was objected to by committees.

As a result of committee activities, **one rule objection** was subject to JCRAR jurisdiction in 2008. The JCRAR took no action on the rule and the rule-making process regarding this rule was allowed to proceed.

The table below reviews legislative committee activity in the review of proposed administrative rules beginning on November 2, 1979 and ending on December 31, 2008.

LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 2008)*						
Year	Rules Submitted	Rules Subject to Modification	Committee Review Objections	JCRAR Rule Objections	Enacted Laws Following Rule Objections	Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections
11/2/79–80	322	18	5	1	0	No bill introduced, rule withdrawn
1981	252	29	10	4	4	Chapters 20 (SEC. 1561), 26, 31 and 180, Laws of 1981
1982	251	31	4	1	1	1983 Wisconsin Act 94
1983	222	30	5	0	0	—
1984	255	26	2	2	2	1983 Wisconsin Act 310 and 1985 Wisconsin Act 29 (SEC. 826)
1985	213	37	8	3	2	♦ 1985 Wisconsin Act 29 (SECS. 1059r and 2238ng to 2238or) ♦ 1985 Assembly Bill 460, passed and vetoed; override failed
1986	251	30	1	0	0	—
1987	182	30	5	0	0	—
1988	219	38	4	0	0	—
1989	212	22	6	2	0	♦ 1989 Senate Bill 89 and 1989 Assembly Bill 171 (failed to pass) ♦ 1989 Senate Bill 248 and 1989 Assembly Bill 457 (failed to pass)
1990	264	29	2	1	0	♦ 1991 Senate Bill 24 and 1991 Assembly Bill 71 (failed to pass)

LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 2008)*						
Year	Rules Submitted	Rules Subject to Modification	Committee Review Objections	JCRAR Rule Objections	Enacted Laws Following Rule Objections	Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections
1991	199	19	5	1	0	♦ 1991 Senate Bill 442 and 1991 Assembly Bill 840 (failed to pass after rule objected to withdrawn by agency)
1992	225	33	3	2	1	♦ 1993 Wisconsin Act 9 ♦ 1993 Senate Bill 3 and 1993 Assembly Bill 17 (failed to pass)
1993	241	24	1	0	0	—
1994	225	29	3	0	0	—
1995	236	19	0	0	0	—
1996	194	19	1	1	1	♦ 1997 Assembly Bill 5 and 1997 Senate Bill 20 (failed to pass) ♦ 1997 Wisconsin Act 237 (SECS. 320s, 322d and 322e)
1997	158	19	6	0	0	—
1998	208	15	0	0	0	—
1999	170	18	2	1	0	—
2000	189	20	2	1	1	♦ 1999 Wisconsin Act 178
2001	157	14	5	2	0	♦ 2001 Assembly Bill 18 and Senate Bill 2 (failed to pass); ♦ 2001 Assembly Bill 524 and Senate Bill 267 (failed to pass) ♦ 2001 Assembly Bill 697 and Senate Bill 361 (failed to pass)
2002	155	35	2	1	0	♦ 2003 Assembly Bill 25 and Senate Bill 19 (failed to pass)
2003	126	20	2	2	0	♦ 2003 Assembly Bill 253 and Senate Bill 123 (failed to pass)
2004	142	21	4	2	1	♦ 2003 Wisconsin Act 240
2005	122	20	4	3	0	♦ 2005 Assembly Bill 8 and Senate Bill 8 (failed to pass) ♦ 2005 Assembly Bill 12 and Senate Bill 12 (failed to pass) ♦ 2005 Assembly Bill 401 and Senate Bill 200 (failed to pass) ♦ 2005 Assembly Bill 404 and Senate Bill 201 (failed to pass) ♦ 2005 Assembly Bill 442 and Senate Bill 220 (failed to pass)
2006	139	21	8	4	0	2005 Assembly Bill 1225 and Senate Bill 732 (failed to pass, late introduction in 2005 Session and reintroduction in 2007 session as Assembly Bill 37 and Senate Bill 9) 2005 Assembly Bill 1226 and Senate Bill 733 (failed to pass; late introduction in 2005 Session and reintroduction in 2007 session as Assembly Bill 27 and Senate Bill 10)
2007	117	16	2	0	0	—

LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 2008)*						
Year	Rules Submitted	Rules Subject to Modification	Committee Review Objections	JCRAR Rule Objections	Enacted Laws Following Rule Objections	Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections
2008	114	13	1	0	0	—
TOTAL	5,760	695	103	34	13 (PLUS ONE BILL PASSED AND VETOED; VETO NOT OVERRIDDEN)	

\* The general system of legislative review of proposed administrative rules, primarily embodied in ss. 227.15 and 227.19, Stats., took effect on November 2, 1979, as part of Ch. 34, Laws of 1979.

### **ELECTRONIC ACCESS**

In 2001, the Legislature, through its service agencies, began providing electronic access to all proposed administrative rules submitted to the Clearinghouse. The system mirrors the process already in place for legislative proposals. That is, interested persons are able to use the Internet to search for proposed rules directly or to link to them from the Legislature's Bulletin of Proceedings. The site holds the initial version of the proposed rule, the Clearinghouse report on the proposed rule, all modified versions of the proposed rule submitted to the Legislature, and the related agency report to the Legislature. Electronic access is available for proposed rules submitted to the Clearinghouse after the year 2000. [The Clearinghouse also has given advice to the Department of Health and Family Services (now the Department of Health Services) regarding a searchable rules website operated by the Executive Branch. The website is <https://apps.dhfs.state.wi.us/admrules/public/Home>.]

### **NOTICE OF CHANGE IN RULE-MAKING AUTHORITY**

To date, no court decisions or changes in legislation have been brought to the attention of the Legislative Council staff that would require notification of JCRAR or appropriate standing committees of a change in, or the elimination of, agency rule-making authority.

### **ASSISTING ADMINISTRATIVE AGENCIES**

The Legislative Council staff has responded to numerous questions from agency personnel, relating to both the process and the law governing legislative review of proposed rules.

### **PUBLIC LIAISON**

To date, the Legislative Council staff has received minimal requests from the public. These infrequent questions have either concerned aspects of the rule review procedure or have related to the status of specific rules.

### **ADDITIONAL ACTIVITIES**

On May 4, 2004, the Co-Chairs of the Joint Legislative Council directed the Legislative Council staff to examine current laws relating to the procedures used for the promulgation of



administrative rules and to develop proposed legislation that modifies current statutory language, codifies practices used in the process, coordinates statutory changes made in the 2003 Session of the Legislature, and makes minor substantive changes to the law.

In order to fulfill this request, the Legislative Council staff sought comments from rule-promulgating state agencies, the chief clerks of the Legislature, and the Revisor of Statutes. The Joint Legislative Council introduced 2005 Senate Bill 150 in order to respond to many of the comments the Legislative Council staff received as well as to issues noted by the experience of the Legislative Council staff itself. The bill was enacted as 2005 Wisconsin Act 249 and took effect on July 1, 2006.

On June 14, 2007, Assembly Bill 410 was introduced as a trailer bill to correct minor errors that occurred through the enactment of 2005 Wisconsin Act 249. This bill became law as 2007 Wisconsin Act 180 and took effect on April 10, 2008.

RS:RNS:tlujal



***APPENDIX 1***  
***SAMPLE CLEARINGHOUSE REPORT***





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **08-001**

AN ORDER to create chapter PI 33, relating to grants for nursing services.

Submitted by **DEPARTMENT OF PUBLIC INSTRUCTION**

01-03-2008 RECEIVED BY LEGISLATIVE COUNCIL.

01-31-2008 REPORT SENT TO AGENCY.

RS:JLK

## **LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES ☒ NO ☐

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES ☒ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES ☐ NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached YES ☒ NO ☐

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES ☒ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES ☐ NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES ☐ NO ☒



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 08-001

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### **1. Statutory Authority**

Section 115.001 (11), Stats., defines a “school nurse” as a “registered nurse licensed under ch. 441 or in a party state, as defined in s. 441.50 (2) (j), who is *also* certified by the department [of public instruction (DPI)] as being qualified to perform professional nursing services in a public school.” (Emphasis added.) This definition of “school nurse” then applies in s. 115.28 (47), Stats., which provides a grant program for school districts (other than the Milwaukee Public Schools (MPS)) to “employ additional school nurses or contract for additional nursing services.”

Thus, s. 115.28 (47) provides that the grant may be used to: (1) “employ” additional school nurses, that is, registered nurses who have DPI certification; and (2) “contract for additional nursing services” that is, not employ, but contract with others for “additional nursing services.”

In contrast to s. 115.001 (11), Stats., s. PI 33.02 (6) defines a “school nurse” for purposes of this grant program as a “registered nurse in Wisconsin with a baccalaureate degree in nursing.” Section PI 33.03 (1) then provides that the grant may be used to employ “additional school nurses,” that is, nurses who do not have DPI certification.

There does not appear to be statutory authority to define “school nurse” in a manner that differs from this statutory definition and, thus, permit use of the grant moneys to employ nurses who do not have DPI certification.

## **2. Form, Style and Placement in Administrative Code**

Section 20.255 (2) (dL), Stats., provides that the grants must be awarded to school districts that demonstrate the greatest need for school nursing services based on criteria such as: the ratio of pupils to nurses; the rate of chronic health problems among pupils; and the number of pupils from low-income families. Section PI 33.03 (3) (b) provides that the application must provide evidence of need, and s. PI 33.04 (2) (a) lists one of the criteria on which DPI will base its decision to award grants as including the extent there is a need for the grant.

Section VIII., Statement of Need, of Form PI 2124 (the application form) specifies in the third bullet point of the first paragraph that “priority will be given to projects with at least one school with the percentage of student’s (sic) eligible for free or reduced lunch at or above the 70% rate.” This statement of policy must be included in the rule, not just in a form. See ss. 227.01 (13) and 227.10 (1), Stats.

In addition, two of the bullet points of the third paragraph in Section VIII. of this form refer to issues that also may be included in considering the need for the grant, namely, the number of pupils without medical insurance and the number of pupils qualifying for exceptional educational services in three specified areas. If these are criteria that DPI will use in considering which school districts have the greatest need, they also should be included in the rule, not just in a form.

## **4. Adequacy of References to Related Statutes, Rules and Forms**

a. In s. PI 33.04 (1), the reference to “s. 20.255 (2) (fz), Stats.” should be changed to “s. 20.255 (2) (dL), Stats.”

b. Section PI 33.05 requires each grant recipient to submit a report to DPI. The rule should specify the deadline by which the report must be submitted.

## **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the first sentence of the second paragraph of the analysis, “greatest need such as the ratio” would be clearer if it were changed to language more similar to the statutory provision, namely, “greatest need for such services based on criteria such as the ratio.”

b. Section PI 33.02 (2) defines “nursing services” as “any duties provided or delegated by the school nurse to increase the health and safety of children and youth.” If a school district did not have a school nurse on staff, this means that no such duties could be provided or delegated, which would mean that the grant could not be used to contract for additional nursing services. Is that the intent?

c. In s. PI 33.02 (4) and (5), “meaning defined” should be changed to “meaning given.”

d. In s. PI 33.03 (1), the phrase “Annually by December 14, 2007, and by April 30 in subsequent years” should be changed to “Annually by April 30” since the December 14, 2007 deadline is not pertinent to the permanent rule.



e. In s. PI 33.03 (2), the phrase “communicable disease” is confusing as all of the other listed items are activities. Was something such as “communicable disease prevention,” “communicable disease control,” or “communicable disease prevention and control” intended?

f. In s. PI 33.03 (2), the phrase “advocacy for health” should be changed to “advocacy for the health.”

g. In s. PI 33.04 (1), “inform school district” should be changed to “inform school districts.”

h. In s. PI 33.04 (2) (b), “student” should be changed to “pupil” to be consistent with the statutes relating to K-12 education and other provisions in the administrative code.

i. In the third bullet point of the first paragraph of Section VIII., Statement of Need, of Form PI 2124: “free or reduce lunch” should be changed to “free or reduced-price lunch”; “student’s” should be changed to “students”; and “free or reduced lunch” should be changed to “free or reduced-price lunch.”

j. The second bullet point of the last paragraph of Section VIII. of Form PI 2124 refers to the number of pupils without “medical insurance.” Many individuals have health care coverage that is not technically “insurance,” for example, Medical Assistance, BadgerCare, and self-funded employer plans. It appears that it would be more appropriate to use a generic phrase such as “health care coverage” rather than “medical insurance” to avoid ambiguity on this point.

k. The third bullet point of the last paragraph of Section VIII. of Form PI 2124, uses the phrase “exceptional educational services.” However, with the revisions of subch. V, ch. 115, Stats., this phrase is no longer used in the statutes. Consideration should be given to using the terminology used in current law to describe a child with a disability who needs special education and related services.



## ***APPENDIX 2***

### ***PROCESSING INSTRUCTIONS TO AGENCY HEADS***





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### PROCESSING INSTRUCTIONS TO AGENCY HEADS

[ENCLOSED ARE THE SENATE AND ASSEMBLY RULE JACKETS CONTAINING THE LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT. AN ADDITIONAL COPY OF THE CLEARINGHOUSE REPORT IS ENCLOSED FOR YOUR FILES.]

**PLEASE NOTE:** Your agency must complete the following steps in the legislative process of administrative rule review:

1. On the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Report Received by Agency."
2. On the appropriate line or lines on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date or dates and, in column 2, "Public Hearing Held" OR "Public Hearing Not Required."
3. Enclose in both clearinghouse rule jackets, in triplicate, the notice and report required by s. 227.19 (2) and (3), Stats. [The report includes the rule in final draft form.]
4. Notify the presiding officer of the Senate and Assembly that the rule is in final draft form by hand delivering the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk. At the time of this submission, on the appropriate line on the face of the clearinghouse rule jacket, each Chief Clerk will enter, in column 1, the appropriate date and, in column 2, "Report Received from Agency." Each clearinghouse rule jacket will be promptly delivered to each presiding officer for referral of the notice and report to a standing committee in each house.
5. If the agency does not proceed with the rule-making process on this rule, on the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Rule Draft Withdrawn by Agency" and hand deliver the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk.

**FOR YOUR INFORMATION:** A record of all actions taken on administrative rules is contained in the Bulletin of Proceedings of the Wisconsin Legislature. The clearinghouse rule jackets will be retained by the Legislature as a permanent record.

[See reverse side for jacket sample.]

**— *SAMPLE* —**

**CLEARINGHOUSE RULE ASSEMBLY**      08-001

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AN ORDER to create chapter PI 33, relating to grants for nursing services.

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Submitted by    Department of Public Instruction

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01-03-08	Received by Legislative Council.		
01-31-08	Report sent to Agency.		

**NOTE:** EACH SUBSEQUENT ACTION TAKEN BY A STANDING COMMITTEE OR THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES WILL BE ENTERED ON THE JACKETS BY APPROPRIATE LEGISLATIVE STAFF.